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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,735	08/27/2001	Takashi Saito	053969-0129	2749
22428	7590	07/12/2005		
FOLEY AND LARDNER				EXAMINER
SUITE 500				PAYNE, DAVID C
3000 K STREET NW				ART UNIT
WASHINGTON, DC 20007				PAPER NUMBER
				2638

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/938,735	SAITO, TAKASHI	
Examiner	Art Unit		
David C. Payne	2638		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 June 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3 and 5-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3 and 5-8 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

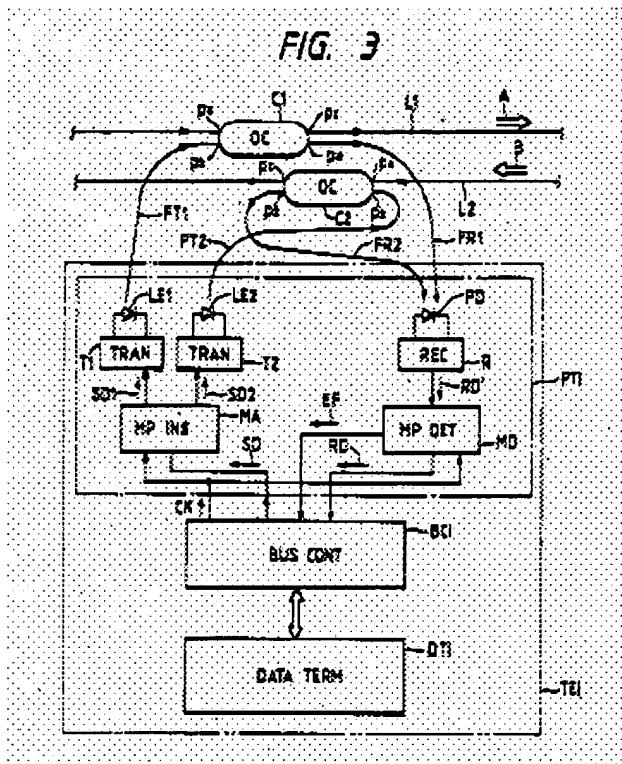
Response to Arguments

1. Applicant's arguments filed 30 June 2004 have been fully considered but they are not persuasive, for the same reasons as discussed in the 10 January 2005 office action.
2. Furthermore, the examiner cannot find any substantive embodiment of the transmit and receiver interfaces in the applicant's specification. If the actual transmitter and receivers are located in 21 and 22 respectively of the applicant's Figure 1, then the items 23 and 24 must merely be some passive device following the coupler. The examiner request further explanation as to where in the specification items 23, 24, 27 and 28 are detailed.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaharu et al. US 5,130,836 (Kaharu).



Re claims 1, 3, 6, and 7 Kaharu disclosed

An optical transmission system (apparatus /monitoring method, external conducting means), comprising an optical communication apparatus, a communicating party of said optical communication apparatus, and a monitor (PTi of Figure 3) for performing monitoring of optical signals transmitted (A of Figure 3) and received (B of Figure 3) between said optical communication apparatus (left of Figure 3) and said communicating party (right of Figure 3); wherein said optical communication apparatus comprises: optical branching means (C1 and C2 of Figure 3) for branching optical signals to be transmitted to said communicating party (left of Figure 3) and optical signals received from said communicating party (left of Figure 3); and conducting means for conducting said optical signals to be transmitted and said received optical signals that have been branched by said optical branching means, to said monitor, and said monitor performs monitoring of the data contents of said optical signals to be transmitted and said received optical signals that have been conducted from said conducting means (e.g., col./line: 3/50-67).

Furthermore, Kaharu (Figure 3) disclosed a 1st transmit interface (Pc) from the optical branching

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device (C1) and a 2nd transmit interface (Pd) from the optical transmit branching device (C1) to a monitor (PTi) and, a receive interface (Pa) coupled to receive optical signal from a communication party, an optical branching receiving device (C2) creating 3rd (Pc) and 4th (Pd) optical signal, 4th optical signal proceeding to a monitor. Kaharu does not disclose that a single optical cable is used for transmitting the signal to the communicating party. However, it is extremely well known in the art to place multiple fibers in a single cable or to place multiple signals on a signal fiber in a single cable. It would have been obvious to one of ordinary skill in the art at the time of invention to use a single cable since multiple cables for a few optical signal transmissions is an inefficient use of cabling.

Re claims 5 and 8 Kaharu disclosed

wherein said data contents are signaling information necessary for data exchange (e.g., col./line: 5/10-35).

Re claims 2 Kaharu does not disclose

wherein said monitor consists of two mutually independent monitors: a monitor for performing monitoring of the data contents of said optical signals with separate interfaces. However, it would have been obvious to one of ordinary skill in the art at the time of invention to use separate monitors if for example monitoring occurred in separate locations or by different operators. Furthermore, making parts separable is not patentable over the prior art.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (571) 272-3024. The examiner can normally be reached on M-F, 7a-4p.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dcp



David C. Payne
Patent Examiner
AU 2638

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